IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

AND
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 19568 of 2004

Between:

M/s. Universal Trading Company, wholesale Dealers of Second hand empty glass bottles, 19-4-248, Iddgah, Near Miralam Tank, Hyderabad, rep. by its Partner Mr. S.M. Hussain Ali Mirza.

..... PETITIONER

AND

Commercial Tax Officer, Lord Bazar Circle, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to Issue Writ of Certiorari or any other appropriate Writ or Order or Direction calling for the records of the Respondent dt. 04.10.2004 issued in Rc.No.3/2166/2003-04 for the assessment year 2003-04 provisionally and quash the same as arbitrary, contrary to law and against the circulars of the Commissioner of Commercial Taxes in C.C.T's Ref.No.AII(2) 430/2000, dt. 15.02.2000 issued in favour of the Petitioner clarifying that the Petitioner is not liable to pay tax on sales of the second hand empty glass bottles purchased from hawkers and unregistered dealers and also in another circular in C.C.T's Ref.No.AI(1)1606/2002, dt. 26.06.2002 and in any event, the rate of tax is only at 1% under Section 5-A of the Act and pass.

Counsel for the Petitioner: MR.SHAIK JEELANI BASHA
Counsel for the Respondent : GP FOR COMMERCIAL TAX

The Court made the following

ORDER: (per the Hon'ble Sri Justice Bilal Nazki.J)

The petitioner has challenged the provisional show cause notice issued on 04.10.2004 giving it a period of seven days to file written objections on the turnovers mentioned in the provisional show cause notice, and as to why provisional orders will not be passed.

It is pleaded that the writ petition is premature and without explaining and showing a cause to the respondent, the petitioner should not have approached this Court. The learned counsel for the petitioner, however, submits that there is a Circular issued on 15.02.2000 clarifying that as the petitioner was dealing in sale of second hand empty bottles, the second hand sale was not exigible to any tax. These are the matters, which can be explained in reply to the show cause notice.

Therefore, the writ petition is premature and the same is accordingly dismissed. In the interests of justice, we give the petitioner one more week time from today to submit its objections, if any, to the Commercial Tax Officer. No order as to costs.

(BILAL NAZKI. J)

---------- (S. ANANDA REDDY. J)

Date: 26.10.2004

Ksld

To

1. Commercial Tax Officer, Lord Bazar Circle, Hyderabad.

2 Two CCs to GP for Commercial Tax, High Court buildings, Hyderabad

(OUT)

3 Two CD copies.